

jc852 U.S. PTO
06/20/00

06-21-06

A

DOCKET NO. 19603/3286 (CRF D-2062B)
EXPRESS MAIL NO.: EL434573162US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

UTILITY PATENT APPLICATION TRANSMITTAL FORM
(only for new nonprovisional applications under 37 CFR 1.53(b))

jc846 U.S. PTO
09/596958
06/20/00

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231
BOX: PATENT APPLICATION

SIR:

Transmitted herewith for filing is the patent application (including Specification, Claims, Sequence Listing (if applicable) and Abstract, 45 pages) of:

Inventor(s): **Jihyun Francis Kim and Steven V. Beer**

For : **HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA AMYLOVORA* AND ITS USE**

****If a CONTINUING APPLICATION, please mark where appropriate and supply the requisite information below and in a preliminary amendment:**

☐ continuation ☒ divisional ☐ Continuation-In-Part (CIP)
of prior application Serial No. 09/120,927

Prior application information: Examiner : **O. Zaghmout**
Art Unit : **1638**

Enclosed are:

- ☒ 6 sheets of informal drawings.
- ☐ **Signed** Combined Declaration and Power of Attorney (_____ pages).
- ☒ **Copy of signed** Combined Declaration and Power of Attorney (2 pages) from a prior application (1.63(d) (for continuation/divisional).
- ☐ **Signed** statement deleting inventor(s) named in prior application (_____ pages) (1.63(d)(2) and 1.33(b)).
- ☒ **Incorporation By Reference:** The entire disclosure of the prior application, from which a **copy** of the oath or declaration is supplied herewith, is considered as being part of the disclosure of the enclosed application and is hereby incorporated by reference therein.
- ☐ Assignment (_____ pages) of the invention to _____.
- ☐ Assignment Transmittal Letter.
- ☐ Certified copy of a foreign priority document.
- ☐ Associate power of attorney.
- ☒ Two verified statement to establish small entity status (4 pages) (copy filed in prior application).

- ☒ Preliminary Amendment (1 page).
- ☒ Information Disclosure Statement, form PTO-1449 (11 pages) and 160 references listed (not attached).
- ☐ **UNSIGNED** Combined Declaration and Power of Attorney (____ pages).
- ☒ Request for Transfer of Computer Readable Record and Statement in Accordance with 37 CFR § 1.821(f) (1 page).
- ☒ A self-addressed, prepaid postcard acknowledging receipt.
- ☐ Other:


The Filing fee has been calculated as shown below:

(Col. 1)		(Col. 2)	SMALL ENTITY		OR	LARGE ENTITY	
FOR:	NO. FILED	NO. EXTRA	RATE	FEE		RATE	FEE
BASIC FEE	XXXXXXXX	XXXXXXXX	XXXX	\$345	OR	XXXX	\$690
TOTAL CLAIMS	25 - 20 =	5	x 9 =	\$ 45	OR	x 18 =	\$
INDEP CLAIMS	1 - 3 =	0	x 39 =	\$ 0	OR	x 78 =	\$
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENTED			x 130 =	\$ 0	OR	x 260 =	\$
*If the Total Claims are less than 20 and Indep. Claims are less than 3, enter "0" in Col. 2			TOTAL	\$390	OR	TOTAL	\$

- ☒ A check in the amount of **\$390.00** to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-1138. **A duplicate copy of this sheet is enclosed.**
- ☒ Address all future communications to:

Michael L. Goldman, Esq.
NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603

Date: June 20, 2000


Edwin V. Merkel
Registration No. 40,087

NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603
Telephone: (716) 263-1128
Facsimile: (716) 263-1600

Applicant or Patentee : Jihyun Francis Kim and Steven V. Beer
Serial or Patent No. : 09/120,927
Filed or Issued : July 22, 1998
For : HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA*
AMYLOVORA AND ITS USE

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 CFR 1.9(F) AND 1.27(d)) - NONPROFIT ORGANIZATION**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION : Cornell Research Foundation, Inc.
ADDRESS OF ORGANIZATION : Cornell Business & Technology Park
20 Thornwood Drive, Suite 105
Ithaca, New York 14850

TYPE OF ORGANIZATION :

- ☒ UNIVERSITY OR OTHER INSTITUTION OF HIGHER EDUCATION
- ☐ TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) and 501(c)(3))
- ☐ NONPROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA (NAME OF STATE:) (CITATION OF STATUTE:)
- ☐ WOULD QUALIFY AS TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) and 501(c)(3)) IF LOCATED IN THE UNITED STATES OF AMERICA
- ☐ WOULD QUALIFY AS NONPROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA IF LOCATED IN THE UNITED STATES OF AMERICA (NAME OF STATE:) (CITATION OF STATUTE:)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code with regard to the invention entitled **HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA AMYLOVORA* AND ITS USE** by inventors Jihyun Francis Kim and Steven V. Beer.

described in

- ☐ the specification filed herewith.
- ☒ U.S. Patent Application Serial No. 09/120,927, filed July 22, 1998.

[] U.S. Patent No. _____, issued _____.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).

NAME : EDEN Bioscience Corporation
ADDRESS : 11816 North Creek Parkway N., Bothell, Washington 98011-8205

[] INDIVIDUAL [X] SMALL BUSINESS CONCERN [] NONPROFIT ORGANIZATION

NAME :
ADDRESS :

[] INDIVIDUAL [] SMALL BUSINESS CONCERN [] NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any changes in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United State Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Richard S. Cahoon
TITLE IN ORGANIZATION: Vice President
ADDRESS OF PERSON SIGNING: 20 Thornwood Drive, Suite 105
Ithaca, New York 14850

SIGNATURE: Richard S. Cahoon DATE: Nov. 17, 1998

*Cornell Research Foundation, Inc., is a Corporation which is wholly owned by Cornell University handling Patents and Licensing.

Applicant or Patentee : Jihyun Francis Kim and Steven V. Beer
Serial or Patent No. : 09/120,927
Filed or Issued : July 22, 1998
For : HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA*
AMYLOVORA AND ITS USE

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN : EDEN Bioscience Corporation
ADDRESS OF CONCERN : 11816 North Creek Parkway N.
Bothell, Washington 98011-8205

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA AMYLOVORA* AND ITS USE** by inventors Jihyun Francis Kim and Steven V. Beer described in

- ☐ the specification filed herewith
☒ U.S. Patent Application Serial No.: 09/120,927
Filed: July 22, 1998
☐ U.S. Patent No.:
Issued:

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).

NAME : Cornell Research Foundation, Inc.
ADDRESS : Cornell Business & Technology Park, 20 Thornwood Drive, Suite 105
Ithaca, New York 14850

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☒ NONPROFIT ORGANIZATION

NAME :
ADDRESS :

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING : Jerry L. Butler
TITLE OF PERSON OTHER THAN OWNER : President and Chief Executive Officer
ADDRESS OF PERSON SIGNING : 11816 North Creek Parkway N.
Bothell, Washington 98011-8205

SIGNATURE: 

DATE: 4/13/98

EXPRESS MAIL CERTIFICATE

DOCKET NO.: 19603/3286 (CRF D-2062B)

APPLICANTS: Jihyun Francis Kim and Steven V. Beer

TITLE: **HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA AMYLOVORA* AND ITS USE**

Certificate is attached to the copy of **Two Small Entity Statements Claiming Small Entity Status (2 pages each)** as filed in the prior application of the above-named application.

EXPRESS MAIL NUMBER: **EL434573162US**

DATE OF DEPOSIT: **June 20, 2000**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, Box: Patent Application.

Jane C. Wirszyła
(Typed or printed name of person
mailing paper or fee)

Jane C. Wirszyła
(Signature of person mailing paper
or fee)